

AMENDED IN SENATE APRIL 27, 2004

AMENDED IN SENATE APRIL 16, 2004

AMENDED IN SENATE APRIL 12, 2004

**SENATE BILL**

**No. 1247**

---

---

**Introduced by Senator Soto**

February 12, 2004

---

---

An act to add and repeal Part 4.5 (commencing with Section 42950) of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1247, as amended, Soto. Air pollution: Incentive-Based Emission Reduction Program for Internal Combustion Engines.

~~(1) Existing~~

*Existing* law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law designates air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution from all sources other than vehicular sources, and, subject to the powers and duties of the state board, requires that districts adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction.

Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program to provide grants to offset the incremental cost of projects that reduce emissions of oxides of nitrogen from heavy-duty onroad vehicles, offroad nonrecreation equipment and vehicles, locomotives, diesel marine vessels, stationary agricultural engines, and other high-emitting diesel engines in the state. Existing

regulations adopted by the state board establish the Lower-Emission Schoolbus Program to reduce school children's exposure to air pollution emitted by older schoolbuses through a schoolbus replacement and infrastructure component and a particulate matter retrofit component for diesel schoolbuses, and establish various light-duty vehicle retirement programs to encourage voluntary retirement of older, high-emitting vehicles.

This bill would establish the Incentive-Based Emission Reduction Program for Internal Combustion Engines to reduce unhealthful air emissions from internal combustion engines through the application of financial incentives-based programs. The program would be administered by the state board and the districts. The bill would establish the Incentive-Based Emission Reduction Program for Internal Combustion Engines Trust Fund in the State Treasury, and would make moneys in the trust fund available, upon appropriation by the Legislature, to carry out the purposes of the ~~bill~~ program. The bill would authorize moneys from the fund to be expended on incentive programs including, but not limited to, the Carl Moyer Program, the Lower-Emission School Bus Program, light-duty vehicle programs, lawnmower electrification programs, and projects to retrofit or replace agricultural engines and pumps.

The bill would require each district that elects to participate in the program to establish funding priorities for pollution source reduction projects after considering specified ~~principles and criteria requirements~~, coordinate with any local, state, or federal agency, or with any private organization, concerned with reducing emissions from internal combustion engines that it determines appropriate, and identify potential sources of shared funding responsibilities. The bill would require that 50% of the moneys allocated to each district be expended in a manner that directly addresses air pollution or health impacts resulting from the refining and combustion of gasoline and diesel fuel in communities with the most significant exposure to air pollution.

The bill would require the state board and the participating districts, commencing March 1, 2007, and until March 1, ~~2023~~ 2022, inclusive, to provide an annual report to the Legislature on the program.

The bill would repeal these provisions on December 31, ~~2002~~ 2022.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares all of the  
2 following:

3 (1) Internal combustion engines are the single largest source of  
4 air pollution threatening the public health and environment of all  
5 Californians.

6 (2) Air pollution control districts and air quality management  
7 districts are primarily responsible for reducing the local health  
8 effects associated with air pollution in their respective air basins.

9 (3) A number of regulatory and financial incentive programs  
10 have been established to reduce emissions from internal  
11 combustion engines on a cost-effective basis. Emission reduction  
12 benefits of regulatory programs to reduce emissions from internal  
13 combustion engines affect future engines and are slow in being  
14 realized because of the rate at which older, dirtier engines are  
15 retired or replaced. Emission reduction benefits can be accelerated  
16 through financial incentive programs that target the retrofit or  
17 replacement of older engines. There is, however, no  
18 comprehensive program of financial incentives for reducing  
19 emissions from internal combustion engines.

20 (4) It is, therefore, necessary that legislation be enacted to  
21 establish a comprehensive financial incentives program to reduce  
22 emissions from internal combustion engines based on a fair and  
23 balanced mix of funding sources demonstrating a nexus with the  
24 sources of emissions.

25 (5) The state's air quality program has achieved significant  
26 reductions in pollutant emissions from stationary sources, to the  
27 point that mobile source emissions are the overwhelming cause of  
28 air quality problems in many areas of the state. Despite very  
29 significant improvements in both fuel performance and emission  
30 standards of new gasoline and diesel powered vehicles, mobile  
31 sources have become the dominant source of ozone producing air  
32 emissions, accounting for nearly 70 percent of the state inventory.  
33 Most of these emissions are from older or poorly-maintained  
34 vehicles, particularly gross polluters, and exhaust from other  
35 internal combustion engines.

36 (b) It is the intent of the Legislature in enacting the act adding  
37 this section that the state board and districts in the state place  
38 greater focus on obtaining emissions reductions from mobile



1 sources, especially from gross polluting mobile sources, and that  
 2 ~~additional emission reduction burdens not be placed on stationary~~  
 3 ~~sources due to inadequate control of mobile source emissions.~~  
 4 *those mobile sources achieve their share of emission reductions in*  
 5 *order to improve air quality and achieve and maintain state and*  
 6 *federal air standards.*

7 SEC. 2. Part 4.5 (commencing with Section 42950) is added  
 8 to Division 26 of the Health and Safety Code, to read:

9

10 Part 4.5. Incentive-Based Emission Reduction Program for  
 11 Internal Combustion Engines

12

13 42950. (a) This part shall be known, and may be cited, as the  
 14 Incentive-Based Emission Reduction Program for Internal  
 15 Combustion Engines.

16 (b) The purpose of the program established by this part is to  
 17 reduce unhealthful air emissions from internal combustion  
 18 engines through the application of financial incentives-based  
 19 programs, relying to the greatest extent possible on existing  
 20 programs with proven cost-effective results. The program shall be  
 21 administered by the state board and the districts in accordance with  
 22 this part. ~~The administration of the program shall be delegated to~~  
 23 ~~the districts where the state board determines feasible.~~ The state  
 24 board and the districts may request the assistance of other state  
 25 agencies with relevant expertise and authority to achieve the goals  
 26 and purposes of this part.

27 42951. For the purposes of this part, the following terms have  
 28 the following meanings:

29 (a) “Carl Moyer Program” means the Carl Moyer Memorial  
 30 Air Quality Standards Attainment Program established pursuant  
 31 to Chapter 9 (commencing with Section 44275) of Part 5.

32 (b) “Diesel fuel” means a liquid that is commonly or  
 33 commercially known or sold as fuel that is suitable for use in a  
 34 diesel-powered engine. A liquid meets this requirement if, without  
 35 further processing or blending, the liquid has practical and  
 36 commercial fitness for use in a diesel-powered engine.

37 (c) “Fuel emulsification” means a fuel mixture approved by  
 38 the state board that includes, but is not limited to, water and certain  
 39 additives, with or without surfactants, to reduce emissions from  
 40 compression-ignition engines.



1 (d) “Fund” means the Incentive-Based Emission Reduction  
2 Program for Internal Combustion Engines Trust Fund established  
3 pursuant to Section 42953.

4 (e) “Gasoline” means a volatile mixture of hydrocarbons,  
5 generally containing small amounts of additives, suitable for use  
6 as a fuel in spark-ignition internal combustion engines.

7 (f) “Lawnmower electrification program” means a program  
8 established by a district designed to replace high-emitting lawn  
9 and garden equipment with zero-emission models.

10 (g) “Lower-Emission School Bus Program” means the  
11 program by that name adopted by regulation by the state board on  
12 December 7, 2000, and issued in April 2001, as that program may  
13 be amended from time to time.

14 (h) “Light-duty vehicle retirement program” means a program  
15 to identify and encourage voluntary retirement of older,  
16 high-emitting vehicles and to assist in the repair and replacement  
17 of defective emission control system parts that is established by the  
18 state board pursuant to Article 10 (commencing with Section  
19 44100) of Chapter 5 of Part 5.

20 ~~42952. The state board and the districts shall consider, where  
21 applicable, all of following principles and criteria in administering  
22 and implementing programs authorized under this part to reduce  
23 and mitigate the impacts of emissions from internal combustion  
24 engines:~~

25 ~~(a)~~  
26 *42952. Any new program undertaken by the state board or a  
27 district pursuant to this part is subject to all of the following  
28 requirements:*

29 *(a) The program shall reduce and mitigate emissions, and the  
30 impacts of those emissions, from internal combustion engines.*

31 *(b) Any new mobile source program or any existing mobile  
32 source program that is considered for funding ~~should~~ shall  
33 demonstrate cost-effectiveness expressed in dollars expended per  
34 ton of emissions removed through use of a consistent transparent  
35 methodology with statewide applicability for on-and off-road  
36 diesel engines, light and medium-duty vehicles, or other internal  
37 combustion engines, as determined by the state board pursuant to  
38 Section 42958. All projects shall meet applicable specific  
39 cost-effectiveness criteria and 80 percent of all expenditures shall*



1 be prioritized based on cost-effectiveness within the  
2 cost-effectiveness criteria.

3 ~~(b) Any new program shall demonstrate real emission~~

4 *(c) Any new program shall demonstrate actual emission*  
5 reductions, including, but not limited to, being both measurable  
6 and surplus, through application of realistic program assumptions  
7 ~~that reflect current and expected near-term future conditions.~~

8 ~~(e) Any new statewide program shall be overseen by the state~~  
9 ~~board, and be administered and implemented by local air districts~~  
10 ~~as the state board determines appropriate. The geographic~~  
11 ~~allocation of moneys among air districts should be made in an~~  
12 ~~equitable manner. District programs shall include retrofits, early~~  
13 ~~retirements, replacements, or identification and repair of gross~~  
14 ~~polluting gasoline or diesel vehicles and engines.~~

15 ~~(d).~~

16 *(d) Any new program shall be adopted by regulation by the*  
17 *state board pursuant to Chapter 3.5 (commencing with Section*  
18 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*  
19 *shall be consistent with the authority granted the state board*  
20 *consistent with this division, and shall be implemented by districts*  
21 *pursuant to the regulations adopted by the state board.*

22 *(e) Any new program shall be measured by its impact on ozone*  
23 *and PM compliance with state and federal standards, rather than*  
24 *by the type of fuel used by the motor or engine.*

25 ~~(e)–~~

26 *(f) The implementation of any program shall provide*  
27 *environmental justice in accordance with subdivision (a) of*  
28 *Section 43023.5 to directly reduce ozone and PM concentrations*  
29 *in communities with the most significant exposure to ozone and*  
30 *PM concentrations, including, but not limited to, communities of*  
31 *minority or low-income population.*

32 ~~(f) Any~~

33 *(g) In addition to achieving the air quality objectives pursuant*  
34 *to this part, any program affecting the general public shall have*  
35 *convenience for the general public as an underlying principle.*

36 ~~(g)–~~

37 *(h) Any new program shall have explicit quantifiable*  
38 *objectives, and shall be accompanied by independent and external*  
39 *periodic reviews of program performance and achievement of*  
40 *targeted emissions reductions at expected costs.*



1 ~~(h)~~  
 2 (i) Any new program shall consider issues of startup and  
 3 scalability, and the potential for the program to cause unintended  
 4 negative consequences.

5 ~~(i)~~  
 6 (j) Any new program that addresses emissions in a manner  
 7 similar to those reductions addressed in existing programs in the  
 8 same jurisdiction shall incorporate program reforms considered  
 9 necessary to improve the operational equity of the current program  
 10 and to meet the other principles described in this section.

11 ~~(j)~~  
 12 (k) Emission reductions from any funded and fully  
 13 implemented projects or programs pursuant to this part shall be  
 14 included in the state implementation plan, or any revision to that  
 15 plan, that is submitted to *the* United States Environmental  
 16 Protection Agency pursuant to the federal Clean Air Act (42  
 17 U.S.C. *Sec.* 7401 et seq.).

18 42953. (a) The Incentive-Based Emission Reduction  
 19 Program for Internal Combustion Engines Trust Fund is hereby  
 20 created in the State Treasury. Moneys in the trust fund shall be  
 21 available, upon appropriation by the Legislature, to carry out the  
 22 purposes of this *part*. In addition to ~~moneys~~ *moneys* appropriated  
 23 by the Legislature, the fund may accept ~~moneys~~ *moneys* from other  
 24 sources, including, but not limited to, federal and private sector  
 25 sources.

26 (b) Notwithstanding Sections 16475, 16475.1, and 16480.6 of  
 27 the Government Code, all of the interest earned on money in the  
 28 trust fund shall be deposited in the trust fund.

29 (c) Not more than 2.5 percent of the ~~funds~~ *moneys* deposited in  
 30 the fund may be used by districts for the cost of administering this  
 31 program.

32 (d) Moneys in the fund shall be encumbered prior to December  
 33 31, 2022. Grants may not be made by the state board or a district  
 34 from the fund after that date.

35 42954. Incentive programs eligible for funding from the fund  
 36 include, but are not limited to, the following:

37 (a) The Carl Moyer Program, including, but not limited to, fuel  
 38 emulsification projects to the extent permissible under the  
 39 program.

40 (b) The Lower-Emission School Bus Program.



- 1 (c) Light-duty vehicle retirement programs.
- 2 (d) Lawnmower electrification programs.
- 3 (e) Projects to retrofit or replace agricultural engines and
- 4 pumps.
- 5 42955. Each district that participates in a program described
- 6 in Section 42954 shall do all of the following:
- 7 (a) Establish funding priorities for pollution source reduction
- 8 projects after considering all of the ~~principles and criteria~~
- 9 *requirements* described in Section 42952.
- 10 (b) Coordinate with any local, state, or federal agency, or with
- 11 any private organization, concerned with reducing emissions from
- 12 internal combustion engines that it determines to be appropriate.
- 13 (c) Identify potential sources of shared funding
- 14 responsibilities, including, but not limited to, any of the following
- 15 sources:
- 16 (1) State.
- 17 (2) Federal.
- 18 (3) Private.
- 19 42956. Each district shall expend ~~fifty percent (50%)~~ 50
- 20 *percent* of the moneys it receives from the fund in a manner that
- 21 directly addresses air pollution or health impacts resulting from
- 22 the refining and combustion of gasoline and diesel fuel in
- 23 communities with the most significant exposure to air pollution,
- 24 consistent with subdivisions (a) and (b) of Section 43023.5.
- 25 42957. (a) The responsibilities of the state board or the
- 26 participating district, as applicable, with respect to programs
- 27 implemented pursuant to this ~~article part~~ shall include
- 28 management of program funds and program oversight.
- 29 (b) The state board shall have primary responsibility for any
- 30 federal reporting aspects of each program.
- 31 (c) The responsibilities of a district shall include, but are not
- 32 limited to, local administration of project funds, monitoring
- 33 funded projects, and reporting results to the state board. Any
- 34 project funds awarded to a successful applicant shall be disbursed
- 35 by the district.
- 36 (d) The state board and the districts shall ensure that emissions
- 37 reductions achieved through the program are, to the extent
- 38 permissible under state and federal law, credited by the United
- 39 States Environmental Protection Agency to the appropriate
- 40 emission reduction objectives in the State Implementation Plan.



1 42958. (a) The state board shall assist the districts with  
2 developing procedures to monitor whether the emission  
3 reductions projected in successful grant applications are achieved.  
4 Monitoring procedures may include, but are not limited to, project  
5 audits; and the requirement that each grant recipient provide  
6 information about the project on an annual basis as part of the grant  
7 agreement between the state board or districts and the grant  
8 recipient. The state board and the district shall minimize, to the  
9 extent feasible, the information that is required from grant  
10 recipients, and shall develop a simple and convenient format for  
11 reporting the required information.

12 (b) The monitoring procedures developed pursuant to  
13 subdivision (a) shall allow emission reductions generated to be  
14 fully credited to air quality plans.

15 (c) The state board shall monitor district programs to ensure  
16 that participating districts conduct their programs consistent with  
17 the ~~principles and criteria~~ *requirements* described in Section  
18 42952.

19 42959. Not later than March 1, 2007, and each March 1  
20 thereafter until March 1, ~~2023~~ 2022 inclusive, the state board, in  
21 cooperation with participating districts, shall provide the  
22 Legislature with a program report. The report shall include, but  
23 shall not be limited to, all of the following:

24 (a) A detailed review of the moneys received, moneys granted,  
25 moneys reserved for grants based on project approvals, and shared  
26 funding responsibilities, and the sources of those moneys.

27 (b) An estimate of future demand for grant moneys.

28 (c) A description of the overall effectiveness of the program in  
29 delivering the emission reductions required by air quality plans,  
30 including, but not limited to, the rate of progress plans and  
31 milestone and conformity tests, as well as attainment and  
32 maintenance plans.

33 42960. If any provision of this part or the application thereof  
34 to any person or circumstance is held invalid, it is the intent of the  
35 Legislature that the invalidity not affect other provisions or  
36 applications of the part that can be given effect without the invalid  
37 provision or application, and to this end the provisions of this part  
38 are severable.

39 42961. This part shall remain in effect only until December  
40 31, 2022, and as of that date is repealed, unless a later enacted

- 1 statute, that is enacted before December 31, ~~2002~~ 2022, deletes or
- 2 extends that date.

O

